

AS ADOPTED BY THE BOARD OF SUPERVISORS ON MAY 20, 2002

CHAPTER 1086 Solid Waste Reduction and Recycling

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CROSS REFERENCES

Regulation of garbage and refuse pickup and disposal services - see Code of Va. ' 15.2-930
Separation of solid waste for recycling - see Code of Va. ' 15.2-937
Preference of recycled paper products in purchasing - see Code of Va. ' 15.2-938
Requirement for recycling reports - see Code of Va. ' 15.2-939
Throwing or depositing injurious or hazardous materials upon highways - see TRAF. 442.01
Beverage container litter control - see GEN. OFF. Ch. 606
Dog waste - see GEN. OFF. 612.19(a)(9)
Solid waste management facilities - see S.U. & P.S. 1080
Solid waste storage - see S.U. & P.S. Ch. 1082
Solid waste collection and transportation - see S.U. & P.S. Ch. 1084
Land application of biosolids - see S.U. & P.S. Ch. 1090

1086.01 SHORT TITLE.

This chapter shall be known and may be cited as the "Loudoun County Solid Waste Reduction and Recycling Ordinance."

1086.02 DEFINITIONS.

As used in this Chapter, the singular includes the plural, and vice versa, and the masculine includes the feminine, and vice versa. Definitions not included in this Section

shall assume the meanings included in Part I, 9 VAC 20-80, 9 VAC 20-101, and 9 VAC 20-130.

The following words and terms, when used in this Chapter, shall have the following meanings:

- (1) "Approved facility" means a location that is permitted in accordance with Chapter 1080 of these Codified Ordinances to receive solid waste or recyclable material for storage, disposal, transfer, processing, treatment, recycling, or composting. An approved facility includes, but is not limited to, permitted transfer stations, materials recovery facilities, sanitary landfills, yard waste composting facilities, and vegetative waste management facilities.
- (2) "Business" means a business, corporation, association, firm, partnership, joint stock company, county, city, town, governmental body, or any other legal entity. The term business does not include single and multiple residential facilities.
- (3) "Collection services" means the collection, removal, transportation, or disposal of solid waste for compensation.
- (4) "Collector" means any person engaged in collecting, removing, transporting, or disposing of solid waste or recyclable material for compensation from two or more residential, commercial or industrial establishments in the County.
- (5) "Commercial waste" means all solid waste generated by establishments engaged in business operations other than manufacturing or construction. Commercial waste includes, but is not limited to, solid waste resulting from the operation of stores, markets, office buildings, restaurants, and shopping centers.
- (6) "Customer" means any person that provides compensation to a collector for collection services or recycling services.
- (7) "Director of the Office of Solid Waste Management" or "Director" means the Director of the Office of Solid Waste Management of Loudoun County, or his or

her authorized agent, responsible for the administration and enforcement of this Chapter.

- (8) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, throwing or placing of any solid waste into or on any land or water so that such solid waste or any constituent thereof may enter the environment, be emitted into the air or be discharged into any waters.
- (9) "Garbage" means readily putrescible discarded materials composed of animal, vegetable, or other organic matter.
- (10) Household means attached and detached single and multiple residences, including but not limited to, houses, apartment buildings, condominiums, townhouses, mobile homes, bunkhouses, and crew quarters.
- (11) "Household waste" means any waste material, including garbage, trash, and refuse, derived from households.
- (12) "Industrial waste" means any solid waste generated by manufacturing or industrial process that is not a regulated hazardous waste. Industrial waste may include, but is not limited to, waste resulting from the following manufacturing processes: electrical power generation; fertilizer/agricultural chemicals; food and related products/byproducts; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste.
- (13) "Institutional waste" means all solid waste emanating from institutions such as, but not limited to, hospitals, nursing homes, orphanages, and public or private schools.

- (14) "Litter" means any solid waste that is discarded or scattered about outside of a lawful container or collection vehicle.
- (15) "Mulch" means woody waste consisting of stumps, trees, limbs, branches, bark, leaves, and other clean wood waste which has undergone size reduction by grinding, shredding, or chipping.
- (16) "Municipal solid waste" means that waste which is normally composed of residential, commercial, and institutional solid waste.
- (17) "Nuisance" means an activity which unreasonably interferes with an individual's or the public's comfort, convenience or enjoyment such that it interferes with the rights of others by causing damage, annoyance or inconvenience, and as defined in Section 648.03(g) of these Codified Ordinances.
- (18) "Office of Solid Waste Management" or "OSWM" means the Office of Solid Waste Management of Loudoun County.
- (19) "Permit" means the official document signed by the Director which allows the operation of a collection vehicle(s) in Loudoun County for purposes of providing collection services or recycling services.
- (20) "Person" means an individual or household. Households include single and multiple residential facilities that generate household waste.
- (21) "Principal recyclable materials" means paper, metal (except automobile bodies), plastic, glass, yard waste, wood, and textiles. Principal recyclable materials do not include large diameter tree stumps (tree stumps larger than six inches in diameter).
- (22) "Reclaimed material" means a material which is processed or reprocessed to recover a usable product or is regenerated to a usable form.
- (23) "Recyclable material" means any material separated from the waste stream for utilization as a raw material in the manufacture of a new product. The term

"recyclable material" includes both source separated material and mechanically separated material.

- (24) "Recycled material" means a material that is derived from recycling.
- (25) "Recycling" means the process of separating a given waste material from the waste stream and processing it so that it may be used again as a raw material for a product, which may or may not be similar to the original product. For the purposes of this Chapter, recycling does not include processes that only involve size reduction.
- (26) "Recycling drop-off center" means a lawful collection site for the acceptance by donation, redemption, or purchase of recyclable material from the public. Such a facility does not use power-driven processing equipment.
- (27) "Recycling facility" means a facility which collects, processes, repackages, and markets previously separated recyclable material. The term recycling facility does not include solid waste transfer stations, materials recovery facilities, sanitary landfills, yard waste composting facilities, or vegetative waste management facilities.
- (28) "Recycling services" means the collection of source-separated recyclable material and ensuring the delivery of the recyclable material to a recycling facility or other lawful facility for its ultimate disposition as a recycled material.
- (29) "Refuse" means all solid waste products having the character of solids rather than liquids and which are composed wholly or partially of materials such as garbage, trash, rubbish, litter, residues from clean up of spills or contamination, or other discarded materials.
- (30) "Residential waste" means any waste material, including garbage, trash, and refuse, derived from households. Households include single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreation areas.

- (31) "Resource recovery" means the recovery of material or energy from solid waste.
- (32) "Rubbish" means combustible or slowly putrescible discarded materials which include, but are not limited to trees, wood, leaves, trimmings from shrubs or trees, printed matter, plastic and paper products, grass, rags, and other combustible or slowly putrescible materials not included under the term garbage.
- (33) "Scrap metal" means bits and pieces of metal parts such as bars, rods, wire, or metal pieces that may be combined together with bolts or soldering which are discarded materials and can be recycled.
- (34) "Site" means all land and structures, other appurtenances and improvements thereon used for treating, storing, and disposing of solid waste. "Site" includes adjacent land within the facility boundary used for the utility systems, such as repair, storage, shipping, or processing areas, or other areas incident to the management of solid waste. Further, "site" includes all sites, whether they are planned and managed facilities or open dumps.
- (35) "Solid waste" means any garbage, refuse, sludge, or other discarded material, including solid, liquid, semisolid, or contained gaseous material, resulting from household disposal, commercial and industrial operations, agricultural operations, or community activities. "Solid waste" does not include solid or dissolved materials in domestic sewage, solid or dissolved materials in irrigation return flows, industrial discharges or special nuclear or by-product materials.
- (36) "Solid waste management facility" or "SWMF" means a site used for the planned treating, recycling, storing and disposing of solid waste. A facility may consist of several treatment, storage or disposal units. Further, "solid waste management facility" or "SWMF" means a facility so located, designed and operated that it does not impose a present or potential hazard to human health

or the environment, including the pollution of air, land, surface water or ground water.

(37) "Source-separated means materials separated from the waste stream, by the waste generator, specifically for use, reuse, or recycling.

(38) "Yard waste" means decomposable waste materials generated by yard and lawn care and includes leaves, grass trimmings, brush, wood chips, and shrub and tree trimmings. Yard waste shall not include roots or stumps that exceed six inches in diameter.

1086.03 APPLICABILITY AND EXCLUSIONS.

(a) Applicability. This Chapter shall apply to any person that resides or any business that is located within Loudoun County and generates solid waste. This Chapter shall not affect the right of any person to sell or otherwise dispose of solid waste material as provided in Section 15.2-933 of the Code of Virginia or permitted under any other law of the Commonwealth of Virginia. Nothing in this Chapter abridges the right of any person to give or sell their recyclable material and/or yard waste to any recycling center or program lawfully operated for profit, non-profit, or charitable purposes. This Chapter shall not impose any liability upon any apartment or commercial office building owner or manager for failure of tenants to comply with the requirements for the separation of recyclable material nor upon any collector or transporter of recyclable material for failure of its customers to comply with the requirements for the separation of recyclable material, provided that such owner, manager, and collector provide a recycling system for tenants, employees, and/or customers in accordance with this Chapter and Chapter 1084 of these Codified Ordinances.

(b) Exclusions. This Chapter shall not apply to any person that resides or any business that is located solely in any incorporated town within the boundaries of Loudoun

County unless and until the governing body of any such town, by appropriate action, indicates its intention to have recyclable material covered by the provisions of this Chapter.

Upon the taking of such action by the governing body of any such incorporated town, the provisions of this Chapter shall apply fully in such incorporated town.

1086.04 PURPOSE.

The general purpose of this chapter is the furtherance of effective solid waste management and the recycling of solid waste as provided for in Section 10.1-1411 of the Code of Virginia of 1950, as amended, and as authorized by Section 15.2-937 of the Code of Virginia of 1950, as amended.

1086.05 ADMINISTRATION AND ENFORCEMENT.

(a) Administrative Authority. The Director of Solid Waste Management, or his or her agent, shall be responsible for the administration of this Chapter and shall have the authority to enforce compliance through the use of criminal and civil penalties as authorized by this Chapter.

(b) Right of Entry. The Director, or his or her agent, may, with proper identification, enter, at reasonable times, upon public or private property for the purposes of inspecting and investigating conditions relating to the enforcement of this Chapter, but only after obtaining consent of the owner or occupant of the private property to be inspected, which owner or occupant has the authority, under law, to authorize such entry and inspection.

(c) Inspection Warrant.

(1) If such consent is not obtained for any reason or a justifiable reason exists for not seeking consent, including the inability to contact or locate the person with the authority to authorize such inspection, the Director shall

obtain, from a County magistrate or judge, a warrant authorizing such entry, inspection or investigation upon such private property upon a showing of probable cause, supported by an affidavit, particularly describing the place, thing, or person to be inspected or investigated, and the purpose for which the inspection or investigation is to be made. Probable cause shall be deemed to exist either if reasonable administrative standards for conducting such inspection or investigation are satisfied, with respect to the particular place, thing or person, or if there exists probable cause to believe that there is a condition, object, activity, or circumstance which legally justifies such inspection or investigation. The supporting affidavit shall contain either a statement that consent to inspect or investigate has been sought and refused or not received or a description of the circumstances reasonably justifying the failure to seek such consent in order to effectively enforce this Chapter.

- (2) An inspection warrant shall be effective for the time specified therein, not to exceed ten days, unless extended or renewed by the judicial officer who signed and issued the original warrant, upon a showing that such extension or renewal is in the public interest. Such warrant shall be executed and returned to the judicial officer by whom it was issued within the time specified in the warrant or within the extended or renewed time. After the expiration of such time, the warrant, unless executed, shall be void. An inspection pursuant to such warrant may not be made in the absence of the owner, custodian or possessor of the particular place, thing, or person unless specifically authorized by the judicial officer upon a showing that such authority is reasonably necessary to effectuate the purpose of this Chapter. An inspection pursuant to this warrant shall not be made by means of forcible entry, except that the judicial officer may expressly

authorize a forcible entry where facts are shown sufficient to create a reasonable suspicion of a violation of any of the provisions of this Chapter which, if such violation existed, would be an immediate threat to health or safety, or where facts are shown establishing that reasonable attempts to serve a previous warrant have been unsuccessful. In the case of inspection of a dwelling, prior consent must be sought and refused, unless the issuing judicial officer finds that failure to seek consent is justified and that there is a reasonable suspicion of an immediate threat to public health or safety.

(d) Compliance With Inspection Warrants. No person shall willfully refuse to permit an inspection lawfully authorized by a warrant issued pursuant to this Chapter.

1086.06 GENERAL RESTRICTIONS AND SPECIFICALLY PROHIBITED ACTS.

(a) General Restrictions. No person residing in Loudoun County shall fail to separate recyclable material from household solid waste for recycling, nor shall any business within the County fail to separate at least one principal recyclable material from its waste stream for recycling. Recyclable material may not be disposed as solid waste but shall be deposited only at a lawful recycling drop-off center, recycling facility, approved facility, or through a permitted collector that provides recycling services.

(b) Specifically Prohibited Acts. No person shall engage in any specifically prohibited act. Commission of a specifically prohibited act shall be grounds for enforcement actions and penalties as specified in this Chapter.

(1) No unauthorized person shall remove or cause to be removed, any recyclable material which has been deposited in or at an approved container for the purpose of collection by an authorized recycling collector.

- (2) No owner or manager of any apartment, commercial office building, strip mall, or business shall fail to provide a recycling system to its tenants, employees, and/or customers.
- (3) No person shall willfully dispose of source separated recyclable material as solid waste.
- (4) No person shall mix source separated recyclable material with solid waste intended for disposal.
- (5) No person shall cause the contamination of source separated recyclable material by mixing or causing to be mixed such recyclable material with solid waste or other incompatible recyclable material.
- (6) No person shall knowingly contract for collection or recycling services with a collector that is not permitted in Loudoun County, if such collector is required to be permitted under Chapter 1084 of these Codified Ordinances.

1086.07 SEPARATION OF RECYCLABLE MATERIAL AT SOURCE.

(a) General Requirement. Any person who resides within Loudoun County shall source separate recyclable material as required under this Chapter from his/her household waste and deposit such recyclable material at a recycling drop-off center, recycling facility, approved facility, or make such recyclable material available for collection by a permitted collector that provides recycling services. Multi-family residential facilities shall ensure that each living unit has access to a container or containers suitable for the collection of recyclable material as required under this Chapter; such containers provided shall be of adequate size to contain the recyclable material generated. Any business located within Loudoun County shall source separate from its solid waste stream at least one principal recyclable material and deposit such recyclable material at a recycling drop-off center, recycling facility, approved facility, or make such recyclable material available for collection by a permitted collector that provides recycling services. The frequency of collection for all

recyclable material shall not be less than once every two weeks. Recycled material required for separation, collection, and recycling may not be accumulated speculatively or treated in a manner constituting disposal.

(b) Source Separation by Households. Any person shall source separate the following recyclable material from his/her household waste, at a minimum:

(1) As of January 1, 2003:

- A. Newspaper and magazines;
- B. Container glass, metal and aluminum cans, and plastic beverage and detergent containers.

(2) As of July 1, 2003:

- A. Newspaper and magazines;
- B. Container glass, metal and aluminum cans, and plastic beverage and detergent containers;
- C. Cardboard and paperboard;
- D. Yard waste, providing that such person has contracted with a collector that provides recycling services for yard waste. Any person whose permitted collector does not provide recycling services for yard waste shall not be required to source separate yard waste for recycling and may dispose of yard waste as solid waste.

(c) Source Separation by Businesses. As of October 1, 2003, any business shall separate from its solid waste stream (commercial, industrial, and institutional waste) at least one principal recyclable material that such business generates annually in the greatest quantity. In multi-tenant commercial properties in which individual businesses do not manage their own solid waste, the principal recyclable material separated shall be determined on the basis of the property's combined waste stream. Any business shall be

responsible and held liable for the failure of its employees to comply with the requirements for both the separation of recyclable material from the waste stream of such business and the lawful deposition of the resulting source separated recyclable material.

1086.08 NOTIFICATION.

It shall be the responsibility of the property owner, business owner, or managing agent of any business or multiple residential facility to notify, in writing, its tenants and employees that recycling participation is mandatory. Written notification shall be provided within five (5) days to all new tenants and employees and no less frequently than annually thereafter to all existing tenants and employees. The written notification shall set forth the requirements of this Chapter and include, at a minimum:

- (a) Source separation of recyclable material from the waste stream is mandatory for all tenants and employees;
- (b) What material(s) will be recycled;
- (c) How the recyclable material will be prepared;
- (d) Any set-out requirements;
- (e) Location of recycling containers;
- (f) Prohibitions against contamination of source separated recyclable material;
- (g) The collection schedule for recyclable material;
- (h) Name and telephone number of a representative of the business or multiple residential facility whom the tenant or employee should contact with any questions.

1086.09 SET-OUT REQUIREMENTS.

(a) General Requirements. Materials intended for recycling shall be set out separately from solid waste. Any person shall adhere to the set out requirements for recyclable material consistent with the provisions of this Chapter, Chapter 1084 of these

Codified Ordinances, and the set-out requirements specified by their collector. Recyclable material storage containers shall be adequately covered or secured and maintained so as to prevent blowing, spilling, littering, or leaking of the recyclable material contained therein.

In no event shall recyclable material be set out in plastic bags nor shall any plastic bags be deposited in any recycling container that is not specifically marked as accepting plastic bags. Recyclable material shall be placed in a designated recycling container or set out curbside in accordance with this Section for collection by a permitted collector that provides recycling services. No permitted collector shall be required to collect from any customer recyclable material that does not conform with the set-out requirements specified in this Chapter.

(b) Newspaper and Magazines. Newspaper and magazines shall be segregated from solid waste and not commingled with other recyclable material. Newspaper and magazines set out for collection shall be securely bundled with string or twine, or placed in a brown kraft paper bag, or loose in a reusable bin or container appropriate for recyclable material.

(c) Glass, Metal, and Plastic. Glass containers, metal and aluminum cans, and plastic beverage and detergent containers shall be segregated from solid waste and not commingled with other recyclable material. All containers and cans shall be rinsed and free of all organic material and free-flowing liquids. Glass and plastic containers and metal and aluminum cans may be comingled and shall be set out for collection in a reusable bin or container appropriate for recyclable material.

(d) Cardboard and Paperboard. Cardboard and paperboard shall be segregated from solid waste and not comingled with other recyclable material. Cardboard and paperboard set out for collection shall be free of any organic material and free-flowing

liquids. Cardboard and paperboard set out for collection shall be flattened and securely bundled with string or twine, or placed in a brown kraft paper bag, or loose in a reusable bin or container appropriate for recyclable material. Any cardboard or paperboard set out for collection that is larger than 24- by 24-inches in size when flattened, shall be cut down to meet any size limits required by the collector, provided that such size limits are not smaller than a 24- by 24-inch square.

(e) Yard Waste. Yard waste, including but not limited to grass clippings, leaves, and brush, that is not either mulched or composted on the site of generation for reuse on the site of generation must be source separated for collection and recycling. Yard waste set out for collection shall be containerized in a brown kraft paper bag or reusable bin or container. Yard waste intended for recycling shall not be containerized in plastic bags, and no collector shall be required to collect yard waste set out in plastic bags. Yard waste intended for recycling shall not be contaminated by solid waste or other than an incidental amount of soil or rock.

1086.10 REPORTING.

(a) Required. Any business which separates recyclable material from its solid waste stream and such source separated recyclable material is collected and transported by other than a collector permitted in Loudoun County shall submit an annual recycling report to the Director on a form provided by the Director. Recycling reports shall be submitted for the period from January through December by no later than January 31 for the preceding year. Failure to submit any annual recycling report in accordance with this Section shall be considered a violation and may result in enforcement actions and penalties as authorized by this Chapter.

(b) Recycling Report Information. The annual recycling report shall include information pertaining to recyclable material source separated and collected in Loudoun County for the specified period of time. A report shall be certified and signed by a responsible company official. All measurements included in any report shall be based on the weight of each type of recyclable material reported, provided that where such measurements cannot be accurately determined, the measurement shall be based on carefully estimated data. Where estimates are submitted, such estimates shall contain sufficient detail to reasonably describe how the estimate was prepared. The report shall contain, at a minimum, the following nonproprietary information:

- (1) Name and address of the reporting business;
- (2) Period of time covered by the report;
- (3) Type of recyclable material that is source separated;
- (4) Amount (weight in tons) of source separated recyclable material;
- (5) Name(s) and address(es) of collector or transporter of recyclable material;
- (6) Amount (weight in tons) of recyclable material recycled or diverted and location of recycling facility or diversion location.

(c) Documentation. Supporting documentation used in the preparation of any recycling report shall be retained for purposes of audit, inspection, and/or clarification of reported data by the Director for a period of four (4) years following submissions of such report. Such documentation shall include, but not be limited to, weight or volume receipts received from recycling facilities and weight or volume receipts received from the marketing of collected materials at recycling or redemption centers. Such documentation shall be utilized by the Director to facilitate compliance with the requirements of Section 10.1-1411 of the Code of Virginia.

1086.11 RECYCLING DROP-OFF CENTERS.

It shall be unlawful for any person to litter or deposit solid waste at any recycling drop-off center. No person shall deposit any waste or material in any recycling container that is not specifically marked to accept such waste or material. No person shall cause the discharge or spilling of recyclable material from any container nor place recyclable material outside the designated container. It shall be unlawful for any person to vandalize, destroy, or damage any container or the contents of any container. No unauthorized person shall climb on nor enter any container.

1086.12 SCAVENGING.

It shall be unlawful for any unauthorized person to salvage or otherwise remove any recyclable material from recycling routes, recycling drop-off centers, or the County landfill.

1086.13 PROCUREMENT OF RECYCLED PRODUCTS BY COUNTY.

In determining the award of a contract for paper or paper products to be purchased for use by any division, department, or agency of Loudoun County, the County purchasing agent shall use competitive sealed bids and shall award the contract to the lowest responsible and responsive bidder offering recycled paper products of a quality suitable for the purpose intended, so long as the bid price is not more than ten percent greater than the bid price of the lowest responsive and responsible bidder offering a product that does not qualify as a recycled paper product under the U.S. Environmental Protection Agency's Comprehensive Procurement Guideline and Recovered Materials Advisory Notices.

1084.14 NOTICE; APPEALS.

(a) If the Director determines that a person has failed to comply with any of the provisions of this Chapter, the Director shall immediately serve or have served upon the person, by hand delivery or by registered or certified mail, to the address indicated in County records a notice of violation. Such notice shall set forth specifically the violation,

the corrective action needed to be taken by such person to come into compliance with this Chapter, and the time frame within which such corrective action shall be completed. If the person fails to comply within the time specified or to initiate the required corrective action within a reasonable time after such notice, such person shall be subject to any additional enforcement action and penalties provided for in this Chapter.

(b) A person or business cited with a Notice of Violation may appeal to the Director within thirty (30) days after the date of issuance of the Notice of Violation. Within thirty (30) days of receipt of the appeal, the Director will notify the appellant, in writing by registered or certified mail, return receipt requested, as to the Director's final determination. If the appellant disagrees with the Director's final determination, that person or business may appeal, in writing, within thirty (30) days of receipt of the final determination, directly to the County Administrator. The County Administrator, or his or her designee, shall render a decision as to the appeal and notify both the appellant and the Director, in writing, within thirty (30) days of receipt of the request for appeal. All administrative appeals must be made in writing and shall include justification for the appeal and any supporting documents. Failure to appeal within the period specified herein will constitute a waiver of any administrative or judicial remedies.

1086.15 EQUITABLE REMEDIES.

In addition to the penalty provided in Section 1086.99, the Director may initiate injunction, mandamus, abatement or any other appropriate action to prevent, enjoin, abate or remove a violation of any of the provisions of this Chapter.

1086.99 PENALTY.

(a) No criminal penalties shall be imposed for failure to comply with this Chapter, except for Section 1086.05. A violation of any provision of this Chapter, except for Section 1086.05, shall be punishable by a civil penalty not to exceed two hundred dollars (\$200.00) for each offense. Each day upon which a violation occurs or continues shall constitute a separate offense.

(b) Whoever fails to comply with a valid warrant obtained pursuant to Section 1086.05 is guilty of a Class 3 misdemeanor and shall be fined not more than five hundred dollars (\$500.00).